

HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

UNITED STATES OF AMERICA,

Plaintiff,

v.

JUSTIN LASYONE

Defendant.

Case No. CR07-5284RBL
Case No. C07-5438RBL

ORDER

THIS MATTER is before the Court on Defendant's Motion pursuant to 28 U.S.C. §2255. The record reflects that defendant filed the instant motion on August 15, 2007 and filed a Notice of Appeal of his Judgment and Commitment on August 20, 2007. Absent extraordinary circumstances not present here, this Court should not consider a collateral attack on a judgment while a direct appeal is pending. *See Feldman v. Henman*, 815 F.2d 1318, 1320 (9th Cir. 1987), cert. denied, 503 U.S. 975 (1992); *United States v. Pirro*, 104 F.3d 297, 299 (9th Cir. 1997). Therefore, the Motion pursuant to 28 U.S.C. §2255 is **DISMISSED WITHOUT PREJUDICE**. The defendant may re-file the motion, if necessary, after the conclusion of his direct appeal.

IT IS SO ORDERED.

1 The Clerk shall send uncertified copies of this order to all counsel of record, and to any party appearing
2 pro se.

3 Dated this 27th day of August, 2007.

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5 RONALD B. LEIGHTON
6 UNITED STATES DISTRICT JUDGE
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